

MINUTES
CONTROLLED SUBSTANCE PRECURSOR BOARD
March 31, 2005 - 2:30 P.M.
Room 4B – Fourth Floor - Heber Wells Bldg.
160 East 300 South
Salt Lake City, Utah

CONVENED: 2:42 P.M.

ADJOURNED: 4:16 P.M.

PRESENT:

Clyde Ormond, Bureau Manager
Marty Simon, Board Secretary
Board Members:
Dennis Tenney J. Scott Jenkins
Allen Glanville

ABSENT:

None

GUESTS:

Tony Garcia, Dept. of Public Safety; Lynette Wingert,
Drug Enforcement Agency (DEA).

TOPICS FOR DISCUSSION:

DECISIONS AND RECOMMENDATIONS:

ADMINISTRATIVE BUSINESS:

Minutes

The minutes of the June 26, 2002 and March 19, 2003 board meetings were approved as written.

Administer oath to new board member

Mr. Ormond administered the oath of office to Mr. Glanville and welcomed him to the Board. He reviewed the duties and functions of a board member as stated in 58-1, Utah Code Annotated, and R156-1, Utah Administrative Code.

Elect New Board Chairperson

A motion was made by Mr. Tenney and seconded by Mr. Jenkins to nominate Allen Glanville to be the new board chairperson. The motion carried unanimously.

DISCUSSION ITEMS:

FDA Ban on Sale of Ephedra Alkaloids

Mr. Ormond reviewed this memo from Mitchell Jones, Assistant Attorney General, regarding this FDA ban that became effective on April 11, 2004. He stated that possession of more than 12 grams of ephedrine or pseudoephedrine is a Class A Misdemeanor, according to 58-37c-20. Any finished product containing these are unlawful to be sold, as well as in precursor form. Companies located in Utah must be licensed to sell precursors. However, if they are selling to companies located outside of the state, those companies do not require licensure. The Utah companies would also be

Sodium Hypophosphite Monohydrate

required to report to the Division who they sold it to. Ms. Wingert referred to Subsection 58-37c-20(3), Utah Code Annotated, that should be rewritten to coincide with this ban. She stated they are not aware of any companies licensed with DEA that are currently using this in any of their products.

An Email was received by the Division, from Randy Hoffmaster, Risk Manager for BHS Marketing. He was, requesting information as to whether the sale of this chemical would require licensure in Utah.

Mr. Ormond asked the Board if this is considered to be a precursor that should be listed in the Controlled Substance Precursor statute. Ms. Wingert stated this is not a precursor but is an essential chemical used to make a chemical reaction in a product. It has been designated as a List 1 chemical by the Federal Drug Administration (FDA) and anyone who handles List 1 chemicals must be registered with the FDA. List 2 chemicals don't have to be registered. The DEA has moved it to the List 1 chemical list and require those who use it to be licensed

Mr. Glanville gave a report on a survey he had conducted in other states regarding the use of this and expressed his concern about how it would limit the use of it for companies if it were regulated. Mr. Ormond referred to Subsection 58-37c-8 (7) that exempts any of the precursor chemicals listed in the statute, that are not intended for human consumption, from licensure, regulation or criminal penalties. Ms. Wingert added that if you are an "end user" for these types of chemicals you aren't required to be licensed.

Mr. Ormond asked Ms. Wingert to send a list of the items being used for meth labs that should be listed as precursors. He stated that when the DEA notices that Sodium Hypophosphite Monohydrate is being used to make meth then we could go to the Legislature to list it in the statute. Mr. Ormond stated the Division would have to show cause to the Legislature to add it, or any others, to the statute. If added to the statute it could be written up the same as for red phosphorus. Ms. Wingert spoke about a Federal Public Opinion Survey that had been done and will send a copy to Mr. Ormond to review.

Define ID for Purchase of Iodine

Mr. Ormond stated the rules might have to be revised to add a definition for “A person who is actively engaged in animal husbandry.” Also, the type of documentation the person should be required to present to be able to purchase iodine.

Ms. Wingert stated that people who are engaged in animal husbandry usually buy other products at the same time, so if a person just buys iodine that creates a red flag to the company selling it. Also, most farmers and ranchers usually want a receipt for their taxes when they purchase products. Mr. Jenkins suggested requiring them to show a photo I.D. and give a thumbprint. The Board agreed this was a good idea. Mr. Ormond agreed to add this requirement to the rules.

58-37c-20 (3)(b)

Ms. Wingert suggested that the wording in this subsection should be revised. It should state Ephedra, as Ephedrine is a man made product not a “naturally occurring” chemical. Mr. Ormond replied this would require a change to the statute through legislature.

Revise Rules

Mr. Ormond stated the current rules need to be revised to clarify several things in the statute. He will revise the rules, incorporating the suggestions made by the Board. They will then be sent to the Board, Ms. Winger and Lt. Garcia and all licensed controlled substance precursor companies for review and comment. When they are finalized a Rules Hearing will be scheduled.

NEXT MEETING:

To be determined

DATE APPROVED

CHAIRPERSON, CONTROLLED
SUBSTANCE PRECURSOR BOARD

DATE APPROVED

BUREAU MANAGER, DIVISION OF
OCCUPATIONAL & PROFESSIONAL
LICENSING